

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

C O N F I D E N T I A L STATE 120843

STADIS////////////////////////////////////

FOR ASSIST. SEC ROGERS

FOLLOWING REPEAT STATE 120843 ACTION ALL AMERICAN REPUBLIC DIP POSTS
DTD 23 MAY

QTE

C O N F I D E N T I A L STATE 120843

STADIS

E.O. 11652: GDS

TAGS: BBAK, PE

SUBJECT: BRIBERY OF FOREIGN OFFICIALS BY US CORPORATIONS

REF: A.) STATE 114202 B) LA PAZ 3210 (NOTAL)

C.) STATE 114551

1. IN THE LAST FEW DAYS THE BRIBERY PROBLEM HAS DIRECTLY
OR INDIRECTLY BECOME AN ISSUE IN SEVERAL ADDITIONAL
COUNTRIES, NOTABLY COSTA RICA AND PERU. ON MAY 13 PERU
ANNOUNCED IT WAS EXPROPRIATING GULF'S SMALL RETAIL SALES
OPERATION IN PERU ON THE SOLE GROUNDS THAT BECAUSE OF
RELATIONS WITH OTHER COUNTRIES, GULF IS CONSIDERED TO BE
AN UNDESIRABLE COMPANY. (THERE WERE NO ALLEGATIONS OF
IMPROPER ACTION BY GULF IN PERU AND THE GOP HAS INDICATED
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THAT IT WOULD PAY COMPENSATION TO GULF.) A WALL STREET

JOURNAL ARTICLE OF MAY 15 THAT MENTIONS IN PASSING THE FACT THAT THE SEC HAD ASKED UNITED BRANDS FOR INFORMATION CONCERNING ALLEGED IMPROPER ACTIVITIES IN COSTA RICA RESULTED IN NOTICE TO UNITED BRANDS THAT IT WOULD BE GIVEN 24 HOURS TO PROVIDE A SUITABLE DENIAL, OR FACE EXPULSION FROM THE COUNTRY. UNITED BRANDS HAS DONE SO, AND THE GOCR HAS INDICATED THAT IT IS SATISFIED WITH THE STATEMENT.

2. UNDER THESE CIRCUMSTANCES, DEPT REQUESTS THAT THE EMBASSY RAISE THIS PROBLEM INFORMALLY WITH APPROPRIATE HOST GOVERNMENT OFFICIALS, MAKING FOLLOWING POINTS:

(A) THE RECENT PUBLICITY OVER ALLEGED US COMPANY BRIBES WAS, UNFORTUNATELY, ONLY THE FIRST IN WHAT WILL PROBABLY BE A CONTINUING SERIES OF ALLEGATIONS AND REVELATIONS OF THIS NATURE, BOTH WITHIN AND OUTSIDE THE HEMISPHERE.

(B) WE REALIZE THESE DISCLOSURES CAUSE PROBLEMS FOR THE HOST GOVERNMENTS CONCERNED. HOWEVER, SOME HAVE ACTED IN WAYS THAT CAUSE ADDITIONAL COMPLICATIONS.

(C) THE SECURITIES AND EXCHANGE COMMISSION IS LOOKING INTO SOME OF THESE PROBLEMS AS THEY AFFECT US SHAREHOLDERS' INTERESTS: THE SEC IS THUS CONCERNED WITH FAILURE TO DISCLOSE, RATHER THAN POSSIBLE VIOLATIONS OF FOREIGN LAW. THE CHURCH SUBCOMMITTEE OF THE US SENATE IS LOOKING INTO THE GENERAL CONDUCT OF US COMPANIES ABROAD. ALTHOUGH THE USG WILL NOT BE DISCLOSING THESE MATTERS, THE INVESTIGATIONS ARE LIKELY TO RESULT IN DISCLOSURES, WHICH IN TURN MAY CREATE FURTHER SPECULATIONS. FOR THESE REASONS, THE DEPT HAS INSTRUCTED ME TO RAISE THE MATTER WITH YOU.

(D) THE UNITED STATES GOVERNMENT CANNOT AND DOES NOT CONDONE ILLEGAL ACTIVITIES BY US ENTERPRISES ABROAD. WE DISAPPROVE OF THEM IN THE STRONGEST TERMS, AND HAVE SO INFORMED THE COMPANIES.

(E) ANY US INVESTOR THAT MAKES UNLAWFUL PAYMENTS TO OFFICIALS OF A FOREIGN GOVERNMENT CANNOT LOOK TO THE STATE DEPARTMENT TO PROTECT HIM FROM LEGITIMATE LAW ENFORCEMENT ACTIONS BY THE RESPONSIBLE AUTHORITIES OF THE HOST COUNTRY.

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(F) HOWEVER
, WE BELIEVE IT WOULD BE HELPFUL IF HOST COUNTRIES WOULD CLARIFY THE RULES THAT ENTERPRISES SHOULD FOLLOW REGARDING POLITICAL CONTRIBUTION AND OTHER PAYMENTS.

(G) WE ASSUME THAT THE INVESTIGATION AND PROSECUTION OF SUCH OFFENSES BY FOREIGN AUTHORITIES WILL BE NON-

DISCRIMINATORY, THAT THE PENALTIES WILL BE PROPORTIONATE TO THE OFFENSE, AND THAT PERSONS OR FIRMS WHO MAY BE CHARGED WITH IMPROPER CONDUCT WILL BE TREATED FAIRLY IN ACCORDANCE WITH DOMESTIC CIVIL AND CRIMINAL LAW AND WITH INTERNATIONAL LAW. WE EXPECT THAT ARBITRARY ULTIMATAA INVOLVING EXTRA JUDICIAL SANCTIONS, SUCH AS SUSPENSION OF OPERATIONS, WILL BE AVOIDED.

(H) FINALLY, WE MUST QUESTION ACTIONS WHICH ARE THREATENED OR TAKEN AGAINST COMPANIES WHICH HAVE NOT ACTED IN VIOLATION OF LOCAL LAW. IN SOME CASES, FOR EXAMPLE, IT MAY BE THAT THE ACTIONS TAKEN BY FOREIGN - AS WELL AS LOCAL - COMPANIES ARE PERFECTLY LEGAL, E.G. POLITICAL CONTRIBUTIONS.

3. IN COURSE OF MAKING THIS DEMARCHE YOU MAY WISH TO PROVIDE HOST GOVERNMENT COPY OF DEPARTMENT STATEMENT (REF C).

4. FOR CARACAS: YOU NEED TAKE NO ACTION ON THIS CABLE; SPECIFIC INSTRUCTIONS FOLLOW SEPTTEL.

5. FOR LA PAZ: SUGGEST YOU DRAW ON THESE POINTS AS APPROPRIATE FOR USE WHEN YOU DELIVER RESPONSE TO GOB NOTE (REF B). TEXT FOLLOWS SEPTTEL. INGERSOLL

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